

(PUB. No. 108.)
AN ACT to expedite the settlement of titles to lands in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the surveyor general of California shall, in compliance with the thirteenth section of an act entitled "An act to ascertain and settle the private land claims in the State of California," approved March, third, eighteen hundred and fifty-one, have caused any private land claim to be surveyed and a plat to be made thereof, he shall give notice that the same has been done by a publication, once a week for four consecutive weeks, in two newspapers, one published in the city of San Francisco, and one published near the land surveyed; and shall retain in his office, for public inspection, the survey and plat until ninety days from the date of the first publication in San Francisco shall have expired; and if no objections are made to said survey, he shall approve the same, and transmit a copy of the survey and plat thereof to the Commissioner of the General Land Office at Washington, for his examination and approval; but if objections are made to said survey within the said ninety days, by any party claiming to have an interest in the tract embraced by the survey, or in any part thereof, such objections shall be reduced to writing, stating distinctly the interest of the objector, and signed by him or his attorney, and filed with the surveyor general, together with such affidavits or other proofs as he may produce in support of the objections. At the expiration of said ninety days the surveyor general shall transmit to the Commissioner of the General Land Office at Washington a copy of the survey and plat, and objections, and proofs filed with him in support of the objections, and also of any proofs produced by the claimant and filed with him in support of the survey, together with his opinion thereon; and if the survey and plat are approved by the said Commissioner he shall endorse thereon a certificate of his approval. If disapproved by him, or if, in his opinion, the ends of justice would be subserved thereby, he may require a further report from the surveyor general of California, touching the matters indicated by him, or proofs to be taken thereon, or may direct a new survey and plat to be made. Whenever the objections are disposed of, or the survey and plat are corrected, or a new survey and plat are made in conformity with his directions, he shall endorse upon the survey and plat adopted his certificate of approval. After the survey and plat have been, as hereinbefore provided, approved by the Commissioner of the General Land Office, it shall be the duty of the said Commissioner to cause a patent to issue to the claimant as soon as practicable after such approval.

Sec. 2. And be it further enacted, That the provisions of the preceding section shall apply to all surveys and plats by the surveyor general of California heretofore made, which have not already been approved by one of the district courts of the United States for California, or by the Commissioner of the General Land Office; Provided, That where proceedings for the correction or confirmation of a survey are pending on the passage of this act in one of the said district courts, it shall be lawful for such district court to proceed and complete its examination and determination of the matter, and its decree thereon shall be subject to appeal to the circuit court of the United States for the district in like manner, and with like effect, as hereafter provided for appeals in other cases to the circuit court; and such appeals may be in like manner disposed of by said circuit court.

Sec. 3. And be it further enacted, That where a plat and survey have already been approved or corrected by one of the district courts of the United States for California, and an appeal from the decree of approval or correction has already been taken to the Supreme Court of the United States, the said Supreme Court shall have jurisdiction to hear and determine the appeal. But where from such decree of approval or correction no appeal has been taken to the Supreme Court of the United States no appeal to that court shall be allowed, but an appeal may be taken, within twelve months after the act shall take effect, to the circuit court of the United States for California, and said circuit court shall proceed to fully determine the matter. The said circuit court shall have power to affirm or reverse or modify the action of the district court, or order the case back to the surveyor general for a new survey. When the case is ordered back for a new survey, the subsequent survey of the surveyor shall be under the supervision of the Commissioner of the General Land Office, and not of the district or circuit court of the United States.

Sec. 4. And be it further enacted, That whenever the district judge of any one of the district courts of the United States for California is interested in any land, claim to which, under the said act of March third, eighteen hundred and fifty-one, is pending before him, on appeal from the board of commissioners created by said act, the said district court shall order the case to be transferred to the circuit court of the United States for California, which court shall thereupon take jurisdiction and determine the same. The said district court may also order a transfer to the said circuit court of any other cases arising under said act pending before them, affecting the title to lands within the corporate limits of any city or town, and in such cases both the circuit and district judges may sit.

Sec. 5. And be it further enacted, That all the right and title of the United States to the lands within the corporate limits of

the city of San Francisco, as defined in the act incorporating said city, passed by the Legislature of the State of California, on the fifteenth of April, one thousand eight hundred and fifty-one, are hereby relinquished and granted to the said city and its successors, for the uses and purposes specified in the ordinances of said city, ratified by an act of the Legislature of the said State, approved on the eleventh of March, eighteen hundred and fifty-eight, entitled "An act concerning the city of San Francisco, and to ratify and confirm certain ordinances of the common council of said city," there being excepted from this relinquishment and grant all sites or other parcels of lands which have been or now are occupied by the United States for military, naval, or other public uses, or such other sites or parcels as may hereafter be designated by the President of the United States, within one year after the rendition to the General Land Office, by the surveyor general, of an approved plat of the exterior limits of San Francisco, as recognized in this section, in connection with the lines of the public surveys; And provided, That the relinquishment and grant by this act shall in no manner interfere with or prejudice any bona fide claims of others, whether asserted adversely under right derived from Spain, Mexico, or the laws of the United States, nor preclude a judicial examination and adjustment thereof.

Sec. 6. And be it further enacted, That it shall be the duty of the surveyor general of California to cause all the private land claims finally confirmed to be accurately surveyed and plats thereof to be made, whenever requested by the claimants; Provided, That each claimant requesting a survey and plat shall first deposit in the district court of the district within which the land is situated a sufficient sum of money to pay the expenses of such survey and plat and of the publication required by the first section of this act. Whenever the survey and plat requested shall have been completed and forwarded to the Commissioner of the General Land Office, as required by this act, the district court may direct the application of the money deposited, or so much thereof as may be necessary, to the payment of the expenses of said survey and publication.

Sec. 7. And be it further enacted, That it shall be the duty of the surveyor general of California, in making surveys of the private land claims finally confirmed, to follow the decree of confirmation as closely as practicable whenever such decree designates the specific boundaries of the claim. But when such decree designates only the out-boundaries within which the quantity confirmed is to be taken, the location of such quantity shall be made, as near as practicable, in one tract and in a compact form. And if the character of the land, or intervening grants, be such as to render the location impracticable in one tract, then each separate location shall be made, as near as practicable, in a compact form. And it shall be the duty of the Commissioner of the General Land Office to require substantial compliance with the directions of this section before approving any survey and plat forwarded to him.

Sec. 8. And be it further enacted, That the act entitled "An act to amend an act entitled 'An act to define and regulate the jurisdiction of the district courts of the United States in California, in regard to the survey and location of confirmed private land claims,'" approved June fourteen, eighteen hundred and sixty, and all provisions of law inconsistent with this act, are hereby repealed.

Approved, July 1, 1864.

(PUB. No. 117.)

AN ACT for the disposal of coal lands and of town property in the public domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any tracts embracing coal beds or coal fields, constituting portions of the public domain, and which, as mines, are excluded from the pre-emption act of eighteen hundred and forty-one, and which under past legislation are not liable to ordinary private entry, it shall and may be lawful for the President to cause such tract in suitable legal subdivisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of twenty dollars per acre; and any lands not thus disposed of shall thereafter be liable to private entry at said minimum.

Sec. 2. And be it further enacted, That in any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it shall and may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; the said map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized

land district, a similar map and statement shall be filed with the register receiver, and at any time after the filing of such map, statement, and testimony in the General Land Office, it shall and may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale, shall thereafter be liable to private entry at said minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months notice, in view of the increase or decrease in the value of the municipal property; Provided, That any actual settler upon any one lot, as aforesaid, and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a pre-emption, at said minimum, at any time before the day fixed for the public sale.

Sec. 3. And be it further enacted, That when such cities or towns are established upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

Sec. 4. And be it further enacted, That if within twelve months from the establishment of a city or town, as aforesaid, in the public domain, the parties interested shall refuse or fail to file in the General Land Office transcript made with the statement and testimony called for by the provisions of the second section of this act, it shall and may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by said provisions, with this exception, that they shall each be at an increase of fifty per centum on the aforesaid minimum of ten dollars per lot.

Sec. 5. And be it further enacted, That effect shall be given to the foregoing act, according to such regulations as may be prescribed by the Secretary of the Interior. The act entitled "An act for the relief of the citizens of towns upon the lands of the United States under certain circumstances," approved May twenty-three, anno Domini eighteen hundred and forty-four, and all other acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

Approved, July 1, 1864.

(PUB. No. 140.)

AN ACT in relation to the circuit court in and for the district of Wisconsin, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to enable the district courts of the United States to issue execution and other final process in certain cases," approved March three, eighteen hundred and sixty-three, be, and the same is hereby repealed.

Sec. 2. And be it further enacted, That in all cases, when the district courts of the United States within and for the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas has rendered judgments or decrees prior to the passage of an act approved July fifteenth, eighteen hundred and sixty-two, creating circuit courts for said districts, which cases might have been brought, and could have been originally cognizable in a circuit court, the original papers, and all other papers now on file in the district courts aforesaid, shall be transferred into the clerk's office of the circuit court for the district in which said cases were heard and determined. And it shall be the duty of the district court clerks of said districts, respectively, to have said papers so removed. And it shall also be the duty of said district court clerks to transfer to the offices of the circuit court clerks aforesaid the books of records and journals of the district courts aforesaid, in which are any entries, orders, or proceedings affecting, or in any manner relating to cases which were of circuit court cognizance, or which might have been presented in a circuit court, after having first copied in a book for that purpose, provided all entries, orders, or other proceedings, which may be found in said books, journals or records relating in any manner to cases which were not of circuit court cognizance, and which could not have been prosecuted in a circuit court.

Sec. 3. And be it further enacted, That for the necessary costs and expenses of this transfer of books and papers, and for the expense of procuring books to copy the entries and orders above mentioned, and for the copying of said record entries from the original book into the new one, at the same rate of compensation now allowed to clerks of courts for copies from their records, the clerks of the district courts shall be paid, out of any money in the treasury of the United States not otherwise appropriated, upon the certificate of the judge of the district court.

Sec. 4. And be it further enacted, That the transcripts thus made into a new book, after said book shall have been certified by the clerk to be full and true copies from the original book, shall have the same force and effect as records as the originals; and that the clerks of the circuit courts aforesaid shall be the custodians of the books and papers transferred to their offices, and their certificate of a transcript of any of said books or papers shall be received in evidence with the like effect as if made by the clerk of the court in which the proceedings were had.

Sec. 5. And be it further enacted, That the terms of the circuit and district courts of the United States for said district of Wisconsin shall hereafter be held as follows: at the city of Milwaukee, in said district, on the second Monday of April and the second Monday of September, and at the city of Madison, in said district, on the first Monday of January in each year, respectively. And all writs, process, and proceedings returnable to the terms of either of said courts as now fixed by law shall be deemed returnable, and shall be continued to the terms of said courts, respectively, as fixed by this act; Provided, That all executions, processes, or orders issued from the district court of any district in this act mentioned, in cases transferred to the circuit court, and in part executed, shall be regarded as having been issued from the circuit court, to which each particular case is transferred, and shall be returned thereto. And no writ of execution or other final process, or power exercised, or proceeding had in accordance with law to enforce any judgment or decree, shall be affected by reason of the transfer directed by this act.

Approved, June 27, 1864.

(PUB. No. 129.)

AN ACT granting lands to the State of Wisconsin to build a military road to Lake Superior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be and is hereby granted to the State of Wisconsin, to aid in the construction of a military wagon road from Warsaw, Marathon county, Wisconsin, following the Wisconsin river as far as Shonawang, and from thence, on the most feasible and direct route, to a point on the State line between the States of Wisconsin and Michigan; in a direction leading to Ontonagon, on Lake Superior, every alternate section of public land, not mineral, designated by odd numbers, for three sections in width on each side of said road. But in case it shall appear that the United States have, when the line or route of said road is definitely fixed, sold, reserved, or otherwise disposed of any section, or any part thereof, granted as aforesaid, or that the right of pre-emption or homestead settlement has attached to the same, then it shall be the duty of the Secretary of the Interior to set apart from the public lands of the United States, as hereinbefore described, designated by odd numbers, as near to said even section aforesaid as may be, and the same shall be located within six miles of said road, so much land as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the right of pre-emption or homestead settlement has attached; which lands, (thus selected in lieu of those sold, reserved, or otherwise appropriated, and to which the right of pre-emption or homestead settlement has attached as aforesaid) together with the sections and parts of sections designated by odd numbers as aforesaid, and approved as aforesaid, shall be held by the State of Wisconsin for the use and purpose aforesaid; Provided, That the lands hereby granted shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses and the same shall be applied to no other purpose whatever; Provided, further, That any and all lands heretofore reserved to the United States, or granted by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatsoever, be and the same are hereby reserved and excluded from the operation of this act, except so far as it may be found necessary to locate the route of said road through such reserved lands, in which case the right of way only shall be granted.

Sec. 2. And be it further enacted, That the lands hereby granted to the said State shall be subject to the disposal of the legislature thereof, for the purposes aforesaid and no other; and the said road shall be, and remain, a public highway for the use of the Government of the United States, free from tolls or other charge upon the transportation of any property, troops, or mails of the United States.

Sec. 3. And be it further enacted, That the lands hereby granted to said State shall be disposed of only in the following manner; that is to say, when the said governor shall certify to the Secretary of the Interior that any ten consecutive miles of said road has been completed under the provisions of this act, and in accordance with the fourth section of this act, stating definitely where said completed section of road commences and where it terminates, it shall be the duty of the said Secretary to cause patents to be issued to said State for three sections of land for each mile of road thus completed as aforesaid, and so on until the whole of said road is completed; Provided, further, That no patent shall be given for any of the aforesaid lands before the completion of ten consecutive miles of road, or for any road, or for any part of any road, made before the passage of this act, or for any greater quantity than thirty sections for each ten miles completed according to the provisions of this act; and if said road is not completed within five years no further sales shall be made, and the lands unsold shall revert to the United States.

Sec. 4. And be it further enacted, That said military road shall be constructed under the direction of such agents or commissioners as the Governor of said State may appoint, and where it passes through timbered lands shall be chopped out a uniform width of at least six rods. The road bed

proper to be not less than thirty-two feet wide, and constructed with ample ditches, on both sides, so as to afford sufficient drainage, with good and substantial bridges and proper culverts and sluices where necessary. All stumps and roots to be thoroughly grubbed out between the ditches the entire length of said road; the central portion of which to be sufficiently raised to afford a dry roadbed by means of drainage from the centre to the side ditches; the hills to be levelled and valleys raised so as to make as easy a grade as practicable.

Approved, June 25, 1864.

(PUB. No. 125.)

AN ACT to provide for the examination of certain officers of the army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every quartermaster and assistant quartermaster, and every commissary of subsistence, and every paymaster and additional paymaster shall, as soon as practicable, be ordered to appear for examination as to his qualifications before a board to be composed of three staff officers of the corps to which he belongs of recognized merit and fitness, of whom two at least shall be officers of volunteers, which board shall make a careful examination as to the qualifications of all officers who may appear before them in pursuance of this act, and shall also keep minutes and make a full and true record of the examination in each case. And all members of such boards of examination shall, before proceeding to the discharge of their duties as herein provided, swear or affirm that they will conduct all examinations with impartiality, and with a sole view to the qualifications of the person or persons to be examined, and that they will not divulge the vote of any member upon the examination of any officer who may appear before them.

Sec. 2. And be it further enacted, That such boards of examination shall be convened under the direction of the Secretary of War, by the Quartermaster General, the Commissary General of Subsistence, and the Paymaster General at convenient places; and general rules of examination and a standard of qualifications shall be prescribed by said officers, subject to the approval of the Secretary of War, and shall be published in general orders.

Sec. 3. And be it further enacted, That after such general orders shall have been published for sixty days, if any officer who shall then be ordered before a board of examiners, under the provisions of this act, shall fail for thirty days, after receiving such special order, to report himself as directed, all his pay and allowances shall cease and be forfeited until he does appear and report for examination; and if he shall still thereafter fail for a further period of thirty days so to appear he shall thereupon be dropped from the rolls of the army; Provided, however, That if such failure to appear and report shall have been occasioned by wounds or sickness, or other physical disability, then there shall be no forfeiture of pay until thirty days after such disability has been removed; but if in sixty days after the disability is removed the officer shall not report himself he shall then be dropped from the rolls as in other cases.

Sec. 4. And be it further enacted, That the board of examination shall report that any officer does not possess the requisite business qualifications they shall forward the record of the examination of such officer to the head of the bureau to which he may belong, and if the head of such bureau shall approve the finding and report of the board he shall forward the same through the Secretary of War to the President of the United States, and if the President shall confirm the name of the officer so failing in his examination shall, if commissioned as an officer, be dismissed from the service; but shall not relieve him from liability under existing laws for any offence he may have committed.

Sec. 5. And be it further enacted, That the boards of examination shall forward all their records of examination to the heads of the bureaus to which they pertain, and such records shall be filed in the proper bureaus with a suitable index; and any officer who may desire if shall be entitled to receive a copy of the record in his own case upon paying the cost of copying the same; and if he is not yet commissioned his appointment shall be revoked. And if the board shall report that any officer fails to pass a satisfactory examination by reason of intemperance, gambling, or other immorality, and if the head of the bureau shall approve the finding and report of the board and the same being communicated, as before provided, to the President and confirmed by him, then such officer shall be dismissed from the service without pay, and shall not be permitted to re-enter the service.

Approved, June 25, 1864.

(PUB. Resolution—No. 40.)

A resolution for the relief of Clerks at the Kittery and Philadelphia navy yards.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the settlement of the account of the Kittery and Philadelphia navy yards, the proper accounting officers of the Treasury be and they are hereby authorized to allow such sums as have already been appropriated by Congress for the pay of clerks at said yards, from October, eighteen hundred and fifty-seven, to July, eighteen hundred and fifty-nine.

Approved, June 25, 1864.